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of jurisdictional rights in the baronage; there are Chester and Durham, and there are "lordships which are almost palatinate," among which "the marcherships of the Welch border are . . . splendid instances." Brecknock and the parts near by afford an instance which found its way into the Rolls of Parliament. Humphrey de Bohun, Earl of Hereford and Lord of Brecknock, a marquis in fact before the title had come to be conferred in England, and others interested with him as lords marchers of Wales, bring their complaint before the council that the king's officers are infringing their franchise. "No writ of the king runs there," they could proudly say, and craved judgment of the council accordingly. The council considered that there was ground for the petition, and gave the usual direction. *Rot. Parl.*, II. 90 (1335).

An interesting fact, which the authors do not explain, is mentioned on page 574. Speaking of manorial jurisdiction over personal actions, it is stated that this probably arose out of the feudal relationship between man and lord; but replevin (the process by which a tenant brought in question the validity of a distress levied upon his goods by his landlord) is an exception. That remedy "is regarded as royal and few lords claim to entertain it." The statute of Malicious Distresses in Courts Baron, which may have some connection with the modern action for malicious prosecution of civil demands, may be noticed here. It is of the year 1284, and quite supports our authors. At the same time it tells us how it came to pass that replevin was of royal, whereas trespass, for instance, was of manorial jurisdiction. "If any be attached," runs the statute, upon groundless and malicious complaints, "he shall replevy his distress so taken, and shall cause the matter to be brought afore the justices" — that is, the king's justices in eyre — "before whom, if the sheriff or other bailiff, or lord, do avow the distress lawful," the cause shall now proceed in the royal court. The statute was, apparently, part of the general scheme for bringing property within the king's jurisdiction.

A little further on we come to a long discussion of the nature of the township. The township is a commune or *communitas*. There, with Martin Luther, the authors take their stand; they will no further go; corporation it is not. We might say something in regard to New England townships, but we refrain. The English township is marchland for law and political economy; the question of its nature is no doubt important, but as for us, with Doomsday to bear us out more or less, "vasta est tota." Let the militant economists have it, and let Thorold Rogers — but he is dead.

MELVILLE M. BIGELOW.

The Tribal System in Wales, being a part of an Inquiry into the Structure and Methods of Tribal Society. By FREDERIC SEEBOHM, F.S.A. (London and New York : Longmans, Green and Co. 1895. Pp. ix, 238. Appendices and index, pp. 101.)

IN *The English Village Community* Mr. Seeböhm declared his belief that the English village community and manor were made up of tribal (Celtic and Teutonic) and Roman elements, thus advocating a complex origin. The chapters of the work in which he endeavored to expound this view were, it will be remembered, the least satisfactory portions, and now, in order to make a more thorough study of the question, he returns to the tribal aspect of the subject, beginning with the tribal system of Wales. His reason for beginning with the Welsh evidence is that the Welsh system held its own until the time of codes and surveys, and can, therefore, be examined as no other tribal system of Europe can be, excepting perhaps that of Ireland (p. 52.) Probably he is planning to pass from the known to the unknown on a large scale, and to explain the more obscure systems of Gaul, Rome, and Greece by means of the knowledge gained from the systems of Wales and Ireland. Inasmuch as the key to the problem of the English manor is to be found in the structure of tribal and not of Roman society, the data here given, although in a sense inconclusive, will go a long way toward answering the question of manorial serfdom and manorial lordship.

In March, 1893, Mr. Seeböhm was put upon a Royal Commission to investigate the land system of Wales, and was thus enabled to start with a first-hand inquiry into the Welsh conditions. Although the latest documents used and quoted are those of the fourteenth century, nevertheless it is evident that he has familiarized himself with the land arrangements of the present time, before passing back to those of the earlier period. The earlier documents begin with Extents, Court Rolls and Assessments of the Isle of Anglesey, dating from 1294 to 1352, and are here printed for the first time. (See Appendix A.) They disclose the land system as seen by Norman lawyers soon after the conquest and annexation of Wales, in 1282, and from these Mr. Seeböhm works back to the "Ancient Laws of Wales," of uncertain date, and from these to ecclesiastical donations and grants of the ninth and sixth centuries, each class of materials either enlarging upon or corroborating the others.

The "manor" of Aberffraw is described as composed of demesne land, the holdings of free tenants, who occupied *weles* and *gwelys* and paid in money and work to the prince of Aberffraw, and the lands of so-called *villani*. The *villani* occupied portions of the demesne and outlying lands, and were arranged in groups (non-kindred), the members of each of which were jointly liable for the dues, a tenure known as *trefgverey*. These payments were territorial, not personal. At once the questions arise, What was a *wele*? what a *gweley*? who were the *villani*? in what relation did each stand to the tribe and the land? For answers Mr. Seeböhm turns to the Extents of the Castle and Honor of Denbigh, made in 1335, before the Black Death, and he is exceedingly dexterous in his use of these documents. As in the case of the Anglesey Extents, the free tenants are found holding in *weles* and *gavells*, but a careful examination discloses the fact that the *wele* is not a territory or a district, but a kindred, a family group.

Its relation to the land appears from the Extent to be as follows. The common ancestor of the members of the *wele* seems to have held one undivided share in the district or *villata*. As time went on this share got subdivided (*per stirpes* not *per capita*) into the *weles* of the sons and the *gavells* of the grandsons, until eventually a score or two of kinsmen held the original *wele* together as one family group. Other shares were held by other similar groups in a similar manner. So that the lands of the *wele* remained from original owner to great-grandson composed of bundles of undivided shares located in several *villatae*, which were districts used as units of husbandry, and not "village communities." The *wele* itself was not compact, but could be located in one *villata* or could hold fractional rights in several *villatae*.

Having thus discovered from unimpeachable evidence some of the characteristic features of tribal society, Mr. Seebohm passes to the "Ancient Laws of Wales." The reliability of this material has been in some quarters called in question, but Mr. Seebohm rightly argues that if it contains a body of customary law, which in natural course would produce the condition of things described in the Extents, its authenticity will be substantially confirmed. That this is the case, Mr. Seebohm proves conclusively. The Laws confirm the general structure of the tribe as given in the Extents and add large amounts of detail regarding the internal tribal organism. The *liberi* and *villani* of the Extents were the tribesmen and non-tribesmen of the Laws. The former were organized in kindred-groups, to the ninth, seventh, and fourth degree, the last-named forming the *wele* proper. Each of these groups was under a chief, and between the chief and the men of the kindred there existed a semi-feudal relation, originating in the formal reception of the legitimate child into the kindred. Upon the child, thus become a free tribesman, were conferred cattle and land, and the custom took the form of tribal investiture. From the kin system Mr. Seebohm passes to a closer examination of the relation of the tribe to the land. The *wele* is here found, as in the Extents, to be the tribal unit of land occupation. In the chief was vested the tribal rights in land of his *wele*, but his proprietorship was not absolute. The tribesmen were subordinate but had rights of maintenance, grazing, and co-aration and probably a *peculium* in cattle. The status of the stranger in blood was not serfdom, but might easily become so, since by constant residence the stranger could become the property of the *uchelwr*. Mr. Seebohm's evidence regarding tribal chieftainship is particularly welcome, as he shows that in the tribal system there existed the beginnings of a seigneurial power. Side by side with tribal grades of chieftainship seem to have grown up corresponding grades of territorial chieftainship, but on this point Mr. Seebohm does not appear to be quite clear. Chieftainship was of the family, not of the person. Regarding the rights and limitations of the chief, the evidence is as yet incomplete. The elaborate examination of the *gwesta* and *dawnbwyd* (tribute from tribesmen and non-tribesmen respectively) rather confirms previous knowledge than adds anything to

it. These were paid from a definite geographical area and this fact corroborates the evidence of the Extents that the tribute paid to the lord was territorial, not personal.

Having thus shown that the Extents prove the reliability of the Codes and that the Codes amplify and elucidate the evidence of the Extents, Mr. Seebohm turns to a corroboration of both by still earlier evidence, which involves a study of the tribal system in its relation to the church. This evidence is in the form of grants and donations contained in the "Book of St. Chad," the "Book of Llan Dav," and the Records of Cadoc. Into the long discussion of this evidence it is not necessary to go. Nothing is added regarding the structure of the tribe or its relation to the land. The records simply testify to the habits of tribal chieftains, the family character of tribal donations of land, and the prevalence of food-rents in the sixth as in the thirteenth century.

As this is but the beginning of an extended investigation into the tribal system generally, it would be unjust to Mr. Seebohm to draw hasty conclusions as to the bearing of his evidence upon the question of manorial and feudal development. As a work of research, this essay is wholly admirable, certainly the fullest and most thorough study of the Welsh tribal system extant. It has all the characteristics which made the first 150 pages of *The English Village Community* so valuable to students of economic history,—clearness, originality, and wealth of detail. It also enables us to draw some inferences as to what Mr. Seebohm considers to have been the tribal contributions to the manor and the feudal system. Let us note what these are.

Mr. Seebohm recognizes the importance of the introduction of land as a new economic factor in tribal life (pp. 60, 87). He shows that there was growing up as part of the tribal organism a semi-feudal relation between chief and lord on the one side, and chief and members of the kindred on the other. The chief "invested" his "man," that is, supplied him with cattle and land, less in his personal character than as the representative of the tribe (pp. 63, 72). He shows that the idea of private property did not belong to the tribe (p. 95), that ideas of transfer of the land of a tribesman's freehold were "as foreign to the tribal system in its earlier stages as individuality contrasted with family ownership" (p. 150). He believes that modern forms of conveyance crept in later mainly through contact with a Romanized church (pp. 150, 193, 197, 226, 227). Most important of all, he recognizes in the chieftain of the tribe, of the kindred, or of the household an embryonic manorial lord. For instance, he says that free tribesmen, "under pressure of want or the unscrupulous use of power on the part of *uchelwrs*, or higher chieftains . . . might become almost the serfs of the *uchelwrs*" (p. 109). Non-tribesmen (*alltud*, *aillt*) did actually become *adscripti glebae*, subject to the proprietorship of the *uchelwr*, each with a separate *tyddyn*, and a few *erws* in croft around it, with other lands held in common by the group, and cultivated by co-aration of their common plough team (pp. 116, 122). Such groups could be manumitted

(p. 184) and transferred. The customary food-rent or tribute might easily become *feorm*, the *dawnbwyd* might become *gafol*; each was a territorial, not a personal payment. Add to these conclusions others taken from *The English Village Community*, and the list becomes more complete. Co-aration with eight oxen was tribal (*V. C.*, pp. 279 n., 388); a day's work with a pair of oxen was a tribal unit of land measurement (p. 315); the division of the furlong into as many strips as there were sharers was a widespread tribal custom (p. 383); the allotment of thirty acres to a pair of oxen, and the scattering of the acre strips, as in the Saxon "yardland," was known from India to Ireland (pp. 392, 393).

When we put together these various tribal elements and practices, we begin to see—as yet vaguely, it is true—some of the conditions out of which the English manor grew. Further investigation will bring new data and new interpretations, until, by a process of elimination, the measure of the Roman influence may be determined. But the point to be insisted upon is, that the manorial organization in England derived its essential elements from the tribal, and not from the Roman, system. This I have always maintained. On this matter Mr. Seebohm has one or two important remarks. "The real question," he says, "is whether these so-called feudal tendencies were the result of outside feudal influence upon the tribal system, or whether what we call the feudal system in Western Europe may not itself turn out to have been, in part, the result of tendencies ingrained in the very nature of tribal society, and thus underly the conditions out of which feudalism grew" (p. 135); and again: "These Celtic and tribal touches in what otherwise might be regarded as feudal definitions of serfdom seem to suggest connecting links between tribal and feudal custom" (p. 130). This hits two ways. It calls in question Professor Vinogradoff's objection to "any theory attempting to trace a direct course from the tribe to the manor," and weakens the force of his denial that "pre-eminence of chieftainship implies any growth of manorial power" (*English Historical Review*, July, 1893, pp. 541, 542). It also renders useless the attempt to make the manorial seigneur a gift from the Roman Empire, or to prove that the English manorial system was borrowed from the continent. The free village community is not at present a very substantial entity; neither is there much force in any argument that would give to Roman ideas and methods a greater importance than that of hardening and quickening already existing manorial tendencies.

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Social England: A Record of the Progress of the People. By various writers. Edited by H. D. TRAILL, sometime Fellow of St. John's College, Oxford. Vols. I.—III. (London: Cassell and Co. 1893—1895. Pp. lvi, 504, 587, 550.)

THIS important book has been sufficiently criticised in its defects else-